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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,727	04/05/2001	R. Dennis Nesbitt	P-5500-CP1-D1	7714
24492	7590	10/09/2003	EXAMINER	
THE TOP-FLITE GOLF COMPANY 425 MEADOW STREET PO BOX 901 CHICOPEE, MA 01021-0901			DEL SOLE, JOSEPH S	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/826,727

Applicant(s)

NESBITT, R. DENNIS

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 10, 11, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 10-11 and 20-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement as applied to claims 10-11, and did not traverse the requirement as applied to claims 20-21, in Paper No. 6.

In the Office action of 5/21/03 the Examiner responded to the Applicant's arguments of traversal and made the restriction final.

### ***Drawings***

2. The drawings were received on 8/14/03. These drawings are acceptable.

### ***Specification***

3. The substitute abstract is accepted.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al (5,580,057).

Sullivan et al teach a processing system for forming golf ball preforms having an internal mixer that compounds a batch of golf ball core stock, the internal mixer having a

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mixer outlet (col 10, lines 7-12 and 20-23); a sheeter that forms sheets of golf ball core stock, the sheeter having an sheeter inlet proximate the mixer outlet and having a sheeter outlet (col 10, lines 20-23); preform shaping means for forming golf ball core preforms from the sheets of golf ball core stock (col 10, lines 24-25); an extruder that forms golf ball core preforms of a desired shape from the sheets of golf ball core stock (col 10, lines 24-25, Sullivan cites a Barwell performer, which is an extruder well known in the molding art); and means for rolling the sheets of golf ball core stock into "pigs" prior to being extruded into the golf ball core preforms (col 10, lines 24-25).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (5,580,057) in view of Hamada et al (4,859,166).

Sullivan et al teach the apparatus as discussed above.

Sullivan et al fail to explicitly teach the sheeter including an extruder portion and a calendar portion, the extruder portion having two screws that feed the compounded stock to the calendar portion, the calendar portion having a first roller and a second roller that is upwardly displaced from the first roller to define a nip point where the sheets of stock are formed from the compounded stock.

Hamada et al teach an extruder (Fig 1, #1) having two screws (Fig 2, #2) that feed compounded stock to a calendar (Fig 1, #11) having a first roller (Fig 1, #12) and a second roller (Fig 1, #12) that is upwardly displaced from the first roller to define a nip point for the purpose of forming rubber or elastomeric sheets (the same material molded by Sullivan et al) with a small energy expenditure (col 2, lines 5-15).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Sullivan et al by using as the sheeter an extruder having two screws that feed compounded stock to a calendar having a first and second roller, one displaced upwardly from the other to define a nip point as taught by Hamada et al because it enables sheets to be formed with small energy expenditure, which minimizes the cost of operation.

9. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (5,580,057) in view of Hamada et al (4,859,166) and further in view of Miller et al (4,065,537).

Sullivan et al and Hamada et al teach the apparatus as discussed above. Additionally, Sullivan et al teach rolling sheets into pigs prior to being extruded into ball preforms (col 17, lines 24-25).

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Sullivan et al fail to teach a warm-up mill for warming the sheets of stock; a cool down unit for cooling the sheets of stock prior to being warmed by a warm-up mill; and the warm-up mill combines the first-mentioned stock with a second batch of stock to form warmed sheets of stock.

Miller et al teach warming a sheet stock material on a warm-up mill before using an extruder for forming ball preforms from the warmed sheets (col 8, lines 1-8) and first cooling the sheets of stock prior to being warmed by the warm-up mill (col 8, lines 9-19 and example 6, which shows the stock material milled at a higher temperature than it is extruded); and the warm-up mill combines a first stock with a second batch of stock to form a composite sheet (col 7, lines 7-37) for the purpose of processing the stock at a higher temperature and producing the preforms of various stocks.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Sullivan et al with a warm-up mill following a cool down unit as taught by Miller et al because processing at a higher temperature reduces the amount of orientation in a stock sheet (col 7, lines 33-37) and to have modified Sullivan et al with a warm-up mill that combines two stocks to form a warm composite sheet as taught by Miller et al because preforms made of various stocks reduces the amount of orientation in the preform (col 7, lines 17-32).

### ***Response to Arguments***

10. Applicant's arguments filed 8/8/03 have been fully considered but they are not persuasive.

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The Applicant argues that Sullivan et al does not disclose a sheeter inlet that is proximate the mixer outlet because a two-roll mill is used between an internal mixer and a sheeter.

The Examiner disagrees. Regardless of the placement of the two-roll mill, the sheeter inlet is proximate the internal mixer. The use of the terminology "proximate" does not preclude other structures between the sheeter and mixer. Furthermore, claim 1 is a "comprising" claim which does not preclude the presence of structural features not claimed. Claims 1 and 8-9 stand rejected.

The Applicant argues that the rejections of Sullivan et al in view of Hamada et al and Sullivan et al in view of Hamada et al and Miller et al are improper because the rejection of claims 1 and 8-9 over Sullivan et al does not teach a sheeter inlet proximate a mixer, as addressed above.

Likewise, the Examiner disagrees for the reasons cited above and that Sullivan et al does in fact teach a sheeter inlet proximate a mixer.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Joseph S Del Sole*  
J.S.D.  
October 6, 2003

*[Signature]*  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 4300-1200  
10/6/03